

1 November 2015



The Committee on the Rights of the Child
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Re: Report of the NZ Children's Commissioner to the Committee on the Rights of the Child

As the Commissioner for Children in New Zealand I have a statutory responsibility to advance and monitor the application of the United Nations Convention on the Rights of the Child (UNCRC) by departments of the State and other instruments of the Crown. I will be at the end of my five year term as Commissioner in June 2016 and will not be in the role at the time the formal examination of New Zealand takes place. Throughout my term I have set clear priorities that have focused on addressing the underlying drivers of poor outcomes facing New Zealand children. I would like to take this opportunity to provide a submission on what I see as the most significant issues for children in New Zealand.

It is pleasing to note that many children in New Zealand are doing well and achieving positive outcomes. Most live in supportive homes and receive the care that they need and deserve, and benefit from the protections provided in legislation to prevent them from harm, abuse and neglect. Most children are able to access universal education and health services that support them to live happy and healthy lives.

However, a significant proportion of our children need extra support and services to enable them to thrive. The circumstances of these children are reflected in New Zealand's poor rating in international comparisons of child health and well-being and in our low level of investment in young children. Seventy-two percent of New Zealand children are of European ethnicity, with Māori, the indigenous people of New Zealand, being the next largest population group (15 percent). Unfortunately children's outcomes differ significantly by ethnicity in New Zealand. While there are children across all ethnic groups who are achieving excellent outcomes and thriving, we know that there is significant over-representation of Māori children among those experiencing poor outcomes.

Based on the work I have done as Commissioner over my term it is my view that the three areas that need urgent focus and attention and which the NZ Government should be specifically examined on are:

1. The unacceptably high rates of child poverty and deprivation
2. The quality of care and outcomes being achieved for children in the care of the State
3. Systemic inequities and poor outcomes for Māori children

I believe these three issues underpin and drive poor outcomes for many New Zealand children and compromise children's rights. These issues are not mutually exclusive, for example children in State care, the majority of whom are Māori, often also face significant poverty and deprivation. Addressing these issues will require concerted effort and a co-ordinated long term approach from the New Zealand Government. If these three issues were a key focus of Government activity and investment then there would be a significant positive impact on the status of New Zealand children.

I will outline these three areas in turn and they will be presented in accordance with the UN framework. My submission does not present a comprehensive analysis of all of the issues facing New Zealand children. It should be read in conjunction with the report from Action for Children and Youth Aotearoa (ACYA) and the submission from New Zealand UNCROC Monitoring Group, both of which I fully support.

Child poverty

Poverty is a real issue for many New Zealand children, with about one quarter of children living in low-income families and 14 percent of children living in material hardship.¹ Using the European Union indices (EU-13 5+ threshold), New Zealand children have a material hardship rate of 18 percent. This ranks New Zealand at the low end (i.e. high rates of hardship), similar to Italy, Ireland and France (17 percent) but better than Germany (21 percent) and Greece (22 percent).² While some may dismiss the child poverty rates and hardship rates in New Zealand as inconsequential compared to other nations, for us, in a wealthy nation, the relative disadvantage these children face is not acceptable.

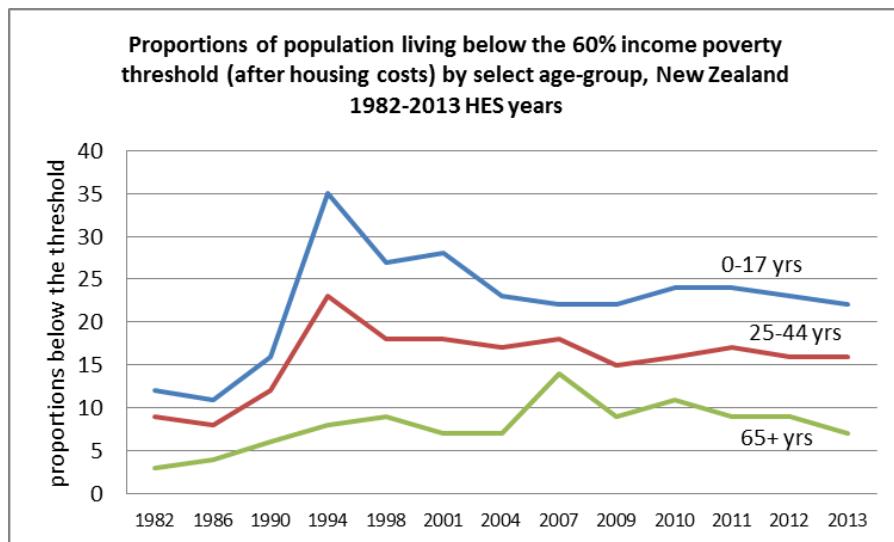
This issue has persisted over time, and children are disproportionately affected compared to all other age groups (see Figure 1). Poverty rates for Māori and Pasifika children are twice that of New Zealand children of European ethnicity (33 percent versus 16 percent).

Poverty is a powerful driver of a range of poor outcomes for children in New Zealand. For example, New Zealand children in low socio-economic areas experience illnesses such as infectious disease, injury, maltreatment, suicide, and hospitalisation for preventable conditions such as bronchiolitis, rheumatic fever and pneumonia at much higher rates than children in higher socio-economic areas. The relatively high costs of housing in New Zealand is one contributing factor, and many poor children are living in cold, damp and overcrowded homes.

¹ New Zealand Child Poverty Monitor for further detail, www.childpoverty.co.nz

² Perry, B., *The material wellbeing of New Zealand households: trends and relativities using non-income measures, with international*. 2015, Ministry of Social Development: Wellington

Figure 1 Income poverty trends by age groups



Source: Derived from Perry, B., *Household incomes in New Zealand: Trends in indicators of inequality and hardship 1982 to 2014*. 2015, Ministry of Social Development: Wellington.

My Office has worked hard over the past four years to raise public and political awareness of the consequences of child poverty and the need for action. At the start of my term, I convened an Expert Advisory Group, and in December 2012 they published their report *Solutions to Child Poverty in New Zealand: Evidence for Action*. While the Government has wholly or partially addressed 29 of the 78 recommendations in that report, the response is piecemeal and not likely to lead to significant or sustained change. For example, as part of Budget 2015, the Government included increased benefit rates by \$25 per week to address child poverty. This was the first increase in benefit rates in over 40 years. The extra \$25 a week will be helpful for families at the hardest end of poverty with one child, though less so for those with more children, as the increase is per family, rather than per child. Children living in hardship in larger families, where poverty is more prevalent, will see less effect from these changes.

Real efforts are needed to reduce the number of children in poverty. This requires the government to have a plan about how they will lift the incomes of our poorest families, and ensuring that children in material hardship are better supported to have their basic needs met.

Comments on the State Report

The State report acknowledges that there has been considerable recent parliamentary, political, media and community interest in the issue of child poverty and hardship. It notes that New Zealand does not have an official measure of child poverty, as the Government sees child poverty and material hardship existing on a spectrum and there will always be debate about where to draw the line.

The Government has taken an approach to address specific issues for children, such as addressing rheumatic fever, increasing participation in early childhood education, and reducing youth crime, rather than directly addressing poverty (with the exception of increasing benefit rates, as noted above). The Government has also made significant efforts to improve the outcomes of vulnerable children, defined as children in families with multiple

and complex needs. Most vulnerable children are also low income families; however, without addressing poverty as the underpinning issue contributing to their vulnerability, in a planned and purposeful way, the impact of these actions is likely to be limited.

Recommendations for the Committee

The Committee may wish to ask the New Zealand Government the following questions:

- Has the Government measured the impact of its actions to address child hardship? If so, what is the result?
- Does the Government have a plan to develop a cross government strategy to address the numbers of children living in poverty and material hardship? If so when will that be developed and published?

Children in state care

At any given time there are between 4000 and 5000 children and young people in the care system. More than half of these are Māori. These are some of the most vulnerable children and young people in New Zealand.

The status of children and young people in the care and protection system has been under the spotlight in New Zealand in 2015, with significant developments occurring after the Government submitted its fifth periodic report in May.

In April, the Minister of Social Development announced the appointment of an Expert Panel to review Child, Youth and Family and develop a business case for the modernisation of New Zealand's care and protection system.

I have the statutory mandate to provide independent monitoring of Child, Youth and Family, the main agency of the State responsible for care and protection. In August, I reported publicly for the first time on the services provided to children by Child, Youth and Family. The resulting *State of Care* report³ summarised the findings of my Office's monitoring activities between January 2014 and June 2015, and also included the voices of children and young people gathered during that period. It found that while there are pockets of excellent practice within Child, Youth and Family, there are major inconsistencies in the care and services provided to children, and a lack of accessible information about how well children are doing while in care and their outcomes once they have left the system. This was consistent with what children and young people told us. The report concluded that Child, Youth and Family is not sufficiently child-centred, has major issues with workforce capacity and capability, and needs to expand its focus from responding to immediate safety concerns to include improving children's long-term outcomes.

In September, the Government's Expert Panel released its interim report on modernising Child, Youth and Family.⁴ It echoed many of the concerns raised by my *State of Care* report, finding that the current operating model:

- is fragmented and lacks common purpose and clear accountabilities
- does not place children at the centre

³ <http://www.occ.org.nz/assets/Publications/OCC-State-of-Care-2015.pdf>

⁴ <https://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/cyf-modernisation/interim-report-expert-panel.pdf>

- does not reflect a high level of aspiration for vulnerable children
- is not effective in supporting families to care for their children
- does not focus on providing earliest opportunities for stable care placements
- does not recruit, support, and retain sufficient caregivers
- lacks evidence-based approaches to achieve results
- lacks a workforce with the capacity and capability to meet the increasingly complex needs of children and families, and
- lacks cultural support.

The interim report sets out a number of objectives and principles for the reform of the system. The Expert Panel is now developing a detailed business case for a "complete overhaul" of Child, Youth and Family, which is expected to be presented to the Minister for Social Development by the end of 2015.

I welcome the review and the Expert Panel's intention to increase investment for children in care. In particular, I am pleased to see the commitment to make the system more child-centred and ensure that children are better off as a result of state intervention. The various short-comings of the current system as highlighted in these two significant reports in 2015 indicate that a number of children's rights are compromised under the current model. This is clearly unacceptable. It will be important that children and young people are genuinely at the centre of a reformed care and protection system and that their right to have a say on decisions that affect them is respected and upheld.

To achieve the changes needed, I believe the issues of workforce capacity and capability will need to be addressed alongside the implementation of the eventual reforms so that lack of skill and capacity does not result in unintended negative consequences for children and young people. In addition, embedding cultural competencies in the system will be essential for addressing the needs of the majority of children in care, who are Māori.

Comments on the State Report

In part because it was completed ahead of two significant reports that have changed the landscape in this area, the State report does not deal adequately with the experiences of children and young people in foster and residential care (including youth justice residences). The discussion in the State report on the Children's Action Plan is generally directed at vulnerable children with issues and concerns not reaching the statutory threshold for mandatory intervention.

The report lacks robust data on the social, educational, and health outcomes of children in care. The data gathered for the State of Care and interim Expert Panel reports suggest the cumulative impact of many elements of disadvantage means the outcomes for children in care are far worse than those of many other vulnerable groups.

For New Zealand to claim significant progress at implementing the Convention, the rights of this group of children and young people need to be addressed. It is clear that the present system is not geared to respond effectively to their complex needs, and may actively breach their rights in a number of critical areas.

Recommendations for the Committee

By the time the Committee examines New Zealand in September 2016, the business case for modernising Child, Youth and Family will have been finalised, and the reforms will be underway. The Committee may wish to ask the New Zealand Government the following questions:

- What is being done to ensure child rights are upheld in the process, and unintended negative consequences for children are avoided?
- What actions are planned to address the significant over-representation of Māori children in State care and in the Youth Justice system?
- What elements will be included in the new system design to ensure children have a say in matters that affect them, including their care placements?

Systemic inequities for Māori children

The inequitable position of Māori children and whānau in NZ society is deeply entrenched. Inequity is evident across the board, including health, justice, employment, housing, education and social outcomes as outlined in Table 1.

The impact of urbanisation and colonisation has resulted in a loss of cultural identity and contributed to intergenerational disadvantage. This situation is compounded by a lack of cultural capability in government agencies responsible for developing policies, legislation and services to support vulnerable communities. It is important to understand that for Māori, children are inextricably linked to their whānau and are not seen as separate from it.

Therefore gains in whānau wellbeing will improve outcomes for Māori children. The persistent disadvantage being experienced by too many Māori children is unacceptable and needs urgent attention. It is my view that we have a culturally inadequate response in New Zealand to the complex socio-economic factors facing many Māori whānau and children.

Comments on the State Report

The State Report acknowledges that New Zealand still faces significant challenges to address the complex issues associated with eradicating child abuse and hardship for Māori children. The State Report highlights the launch of the Whānau Ora approach in 2010, designed to support whānau aspirations and goals; initiatives to address educational underachievement, to increase immunisation rates for Māori children and to develop Māori health plans across District Health Boards; a range of projects to increase cultural capability in the health and education sectors; and an initiative to strengthen the relationships between Iwi Māori leaders and Police that aims to reduce the number of Māori children and young people in Police custody.

While these are all positive initiatives, the current approach is again piecemeal and often sits within agency silos. What is needed is an overarching cross government strategy that drives government activity and ensures that all policies, legislation and government services are assessed for their impact on Māori whānau and children. Such a strategy would need to be co-developed with Māori leaders where they identify the solutions that work for Māori, and would need to place obligations on all government agencies to support and drive its implementation. Initiatives to improve cultural capability would also need to move beyond frontline health and education workers and should be a requirement for all government agencies, including those responsible for policy development and legislation. These steps

would ensure that the New Zealand Government can truly uphold the commitment in the Treaty of Waitangi. Targeting the root causes of inequity and improving outcomes for Māori children across the board will transform the New Zealand landscape for children and come closer to achieving the full implementation of the Convention.

Table 1 Comparison of selected measures of wellbeing

Measure	Māori	NZ European (unless specified as non-Māori or total NZ population)
EDUCATION		
18 year olds with NCEA L2 or above (2014)	67.1%	85.1%
Children in State care with National Certificate of Education Achievement Level 2 or above	15%	25%
Early Childhood Education participation	92.3%	98.2%
HEALTH		
Current smokers (aged 15 and above, 2013-2014)	40.6%	15.2%
Life expectancy at birth	Women: 77.1 years Men: 73 years	Women: 83.9 years Men: 80.3 years
Youth suicide (15-24 years)	48.0 per 100,000	17.3 per 100,000 (non-Māori)
Meningococcal infection (per 100,000, 2013)	All ages: 3.4 <1 year: 32.3 1-4 years: 15.7	All ages: 1.5 (total NZ pop.) <1 year: 18.4 1-4 years: 5.2
Rheumatic fever (all ages, per 100,000, 2012-2014)	13.3	4.2 (non-Māori)
Sudden Unexpected Death in Infants (SUDI) (per 1,000 deaths, 2010-2012)	1.8	0.4 (non-Māori)
LIVING STANDARDS		
Child poverty (0-17 years, below 60% median household income, after housing costs, 2014)	33%	16%
Child material hardship (0-17 years, 2014)	24%	8%
Children in crowded housing (2014)	25%	5%
Unemployment (all ages, 2014)	12.1%	4.4%
Not in Education, Employment or training (NEET) rate (15-24 years, 2015)	20.9%	9.4%
Youth justice: (number and percentage of children aged 10-16 charged in court, 2014/15)	1,152 (59%)	489 (24%)

Recommendations for the Committee

The Committee may wish to ask the New Zealand Government the following questions:

- How have the initiatives outlined in the state report, including Whānau Ora, materially reduced disadvantage for Māori children or improved their outcomes?
- What mechanisms are in place to ensure that the development of policies, legislation and government services are systematically assessed for their impact on Māori whānau and children?
- Has the Government considered setting clear targets for departments that focus on reducing inequitable outcomes for Māori children and Whānau?

Conclusion

Throughout my term I have focused on the issues I believe are driving negative outcomes for a significant portion of New Zealand children: child poverty and children in the care and protection system. Māori children are significantly over-represented in both these issues. These are long-standing problems that require plans, targets and investment by the government to make progress.

During my five year term as Children's Commissioner, the New Zealand Government has undertaken many initiatives aimed at supporting children. But they tend to be piecemeal and ad hoc, and they lack the commitment needed to address the underlying problems. And while policies and practices work for many New Zealand children there is generally poor engagement from Government agencies with children and young people in the development of policy and legislation. The Convention is not used to drive activities, policies or legislation for children and there is no systematic approach to assessing the impact of policies on children or tracking the level of Government budget expended on children. Further work does need to be done to ensure that we routinely consider the impact of our policies and legislation on children so that we can give full effect to the Convention, and we help New Zealand children live to their potential.

I appreciate the opportunity to share my views and concerns of issues facing children in New Zealand. I hope this information will assist your identification of issues you will raise with the New Zealand Government in the next stage of the periodic review process.

Yours sincerely,



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Children's Commissioner